

YAVAPAI SUPERIOR COURT

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,)	No. P1300CR20081339
)	
Plaintiff,)	Div. 6
)	
vs.)	DEFENDANT'S BENCH
)	MEMORANDUM RE: PENDING
STEVEN CARROLL DEMOCKER,)	HUANTE JURY QUESTIONS
)	
Defendant.)	
)	
)	
)	

Steven DeMocker, through his attorneys, submits this brief Bench Memorandum as an aid to addressing the pending jury questions and to resuming the cross-examination of Sgt. Huante. Our review of the transcripts of the proceedings on June 11, 16 and 17 proved helpful to us in refreshing our memories of the rulings Judge Lindberg made while Sgt. Huante was ending his direct examination and commencing

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1 his cross-examination. We share this summary in the hope that it might prove useful as
2 well to the Court and the State.

3
4 MEMORANDUM

5 The direct examination of Sergeant Huante began on Friday, June 11,
6 immediately after lunch. He resumed the stand the following Wednesday, June 16
7 (court was not in session on the 14th and 15th). The transcript from June 16 confirms
8 that possibly the first discussion of juror questions for this witness began at the lunch
9 break on that day. June 16, 2010, Tr. at 36-38. Some questions had carried over from
10 the week before and Judge Lindberg invited counsel to peruse the questions that had
11 come in during the direct examination on Wednesday morning. At that time the Court
12 and counsel seemed to be thinking together that the response to all juror questions for
13 this witness might wait until the examination of Sgt. Huante was complete.

14 At the end of the day on Wednesday, Judge Lindberg advised counsel that
15 additional questions had come in. *Id.* at 116. At Mr. Sears' request, copies of all the
16 pending questions were made for counsel. Judge Lindberg instructed all counsel to
17 appear the following morning an hour ahead of the jurors so that time would be
18 available to go through the questions. *Id.*

19 On Thursday morning, June 17, a fairly lengthy on-the-record session occurred
20 and court and counsel addressed generally the questions about how juror questions
21 should be processed and also discussed a number of specific questions or topic areas
22 raised by the juror questions. By this time, approximately 53 questions had
23 accumulated. June 17, 2010, Tr. at 7. The review of many of those questions is
24 reflected in the first 31 pages of that day's transcript. The essence of the discussion that
25 can briefly be summarized. First, the court and parties agreed that most questions
26 should be deferred until the end of Sgt Huante's examination. Some would be included

1 in the questions asked by Mr. Sears on cross-examination or by the State on redirect.
2 Second, Judge Lindberg then addressed several specific questions. *Id.* at 11 et seq.

3 Judge Lindberg observed that several of the questions had already been answered
4 (such as the question about whether the jurors would be given transcripts of the audio
5 recordings). Other questions were deferred based on Mr. Sears' statement that he
6 intended to ask questions about topics covered on direct. *Id.* at 12. An additional few
7 questions resulted in decisions by Judge Lindberg that he would simply not ask those
8 questions. Each of the potentially problematic questions was addressed. *See Id.* at 21-
9 31.

10 The Court then brought in the jurors and addressed at some length the general
11 topic of juror questioning. *Id.* at 38-40. The Court then explained to the jury that he
12 had decided to "hold off on asking juror questions of the witness until after the cross-
13 examination and redirect examination." *Id.* at 43. The only specific juror question
14 addressed at this time was one dealing with the length of Sgt Huante's videotaped
15 bicycle ride. *Id.* Cross-examination commenced and was interrupted late in the
16 morning by Judge Lindberg's medical emergency.

17 Given what appears to be the consensus of counsel and Judge Lindberg, and
18 taking into account the statement made by Judge Lindberg to the jurors at the beginning
19 of the proceedings on June 17, there may be no need to address specific questions
20 before cross-examination recommences today. Most of the outstanding questions will
21 be covered on cross-examination or redirect. At the end of that phase, we might then
22 pause and look afresh at the questions to see which, if any, remain unanswered.
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1 DATED this 21st day of July, 2010.

2 By: 

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12 **ORIGINAL** of the foregoing hand delivered for
13 filing this 21st day of July, 2010, with:

14 Jeanne Hicks
15 Clerk of the Court
16 Yavapai County Superior Court
17 120 S. Cortez
18 Prescott, AZ 86303

19 **COPIES** of the foregoing hand delivered this
20 this 21st day of July, 2010, to:

21 The Hon. Warren R. Darrow
22 Judge Pro Tem B
23 120 S. Cortez
24 Prescott, AZ 86303

25 Joseph C. Butner, Esq.
26 Jeffrey Paupore, Esq.

27 Prescott Courthouse basket

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